

### **REMARKS/ARGUMENTS**

Claims 1, 2, 4-21 and 23-39 stand rejected in the outstanding Official Action. Claims 1 and 20 have been amended and therefore claims 1, 2, 4-21 and 23-39 remain in this application.

This application is an RCE filed after receipt of the Decision of the U.S. Patent and Trademark Office Board of Patent Appeals and Interferences mailed on March 31, 2009. While the Board agreed with the Examiner's broad claim term construction, the Board did not agree with the Examiner's assertions as to what was disclosed in the cited prior art references. Specifically, the Board defined "condition" as being virtually anything taught by the prior art references (see Decision pages 7 and 8) and subsequently concluded that Angelo's (U.S. Patent 6,581,162) teaching of a "system request" met the limitation of the claimed "condition." (See the paragraph bridging pages 8 and 9 of the Decision). As the Board reiterated its broad construction of "control value" (Decision, first full paragraph on page 9), the Examiner then concluded that the control value was indeed disclosed in the cited prior art as well.

Applicants have amended independent claims 1 and 20 to specifically state that "said condition consisting of a respective one of a domain that said processor is operating in, or (b) a mode that said processor is operating in or (c) a type of said monitoring function . . . ."

Applicants also include herewith page 762 from *Webster's Ninth New Collegiate Dictionary* which defines "mode," especially in conjunction with computers, as "a particular functioning arrangement or condition: STATUS <a spacecraft in reentry ~> <a computer operating in parallel ~>."

The Examiner is believed to be misconstruing the definition of the word "mode" and to be defining this claim term in a manner different from the ordinary dictionary definition of the word (which is consistent with the manner in which the term is used in Applicants' specification

and claims). There is nothing in any definition of “mode” in the computer field that indicates that it can be a “control value” or some other active operating function in a computer. It is simply a designation of a particular “functioning arrangement or condition” of the computer. The Examiner is obligated to construe the term in the manner used in the specification and in the manner which is well known to those of ordinary skill in the computer art, i.e., the attached definition of the term.

The Angelo reference does not disclose a mode. In fact, even if the Examiner’s interpretation of the word “mode” were to be utilized, the control value is the SMI of Angelo (as interpreted by the Board, Decision page 8 last full paragraph). The Board held that “one of the ‘conditions’ taught by Angelo is a system request” and “a system request, . . . , subsequently generates an interrupt (asserts the SMI) and enters the system into SM mode (FF 12).” Thus, in Angelo, the control is an interrupt and an interrupt is clearly not a “mode” that the processor is operating in. No matter how the Examiner construes “mode” in the claims, an interrupt, by its nature, is a request to change the manner in which the processor is operating and not an indication of the “mode.”

In view of Applicants’ amendments to independent claims 1 and 20 limiting the definition of “condition” to the three specified conditions and in view of the evidence of the common definition of the term “mode” as associated with computers, it is submitted that amended claims 1 and 20 clearly distinguish from the subject matter of the Alverson (U.S. Patent 7,020,767)/Angelo combination.

Beginning on page 2, section 6 of the outstanding Official Action, the Examiner rejects claims 1, 2, 4-8, 11-18, 20, 21, 23-36, 38 and 39 under 35 USC §103 as unpatentable over Alverson in view of Angelo. It is noted that the Examiner previously cited large portions of the

Angelo reference as purportedly teaching the claimed subject matter. While both the previous Final Rejection and the present Official Action cite similar portions of the Angelo reference, it is unclear as to whether the Examiner is maintaining his previous interpretation of this reference. It is noted that the Board's construction of the "SMI" in Angelo and its definition of "condition" as being a "system request" is inconsistent with the Examiner's interpretation of the Angelo reference. Accordingly, the Examiner's rejection is now believed to be completely unsupported by the Board of Patent Appeals and Interferences Decision and reconsideration is requested.

Moreover, because Applicants have limited the independent claims' definition of "condition" to one of the three options specified in the independent claims, the Board's (and the Examiner's previous) extremely broad interpretation of "condition" can no longer apply. Thus, the Board cannot conclude that the term "condition" can no longer be met by the Angelo "system request" because it is neither "(a) a respective one of a domain that said processing is operating in or (b) a mode that said processing is operating in or (c) a type of said monitoring function . . . ." In view of the more limited nature of the claim definition of "condition," the Angelo reference and its "system request" will not be judged by the Board upon appeal to meet the narrowed claim limitation.

Should the Examiner contemplate rejecting the amended independent claims 1 and 20 (and claims dependent thereon) in view of the Alverson/Angelo combination, the Examiner is specifically requested to identify where or how he believes the Angelo reference teaches the "condition" as limited by claims 1 and 20. Of course, absent such teaching in Angelo, any further rejection under §103 over the Alverson/Angelo combination would be unsupported, as all claimed elements and claimed interrelationships are not shown in the combination of references, thereby failing to meet the first prong of the test of a *prima facie* case of obviousness.

Also in view of this more limited definition of “condition,” there is a problem with the Examiner’s conclusion that there is some reason for combining Alverson and Angelo in a manner that would disclose the claimed “condition.” The Examiner’s reasons for combining portions of the Alverson and Angelo reference in order to provide the claimed “condition” are respectfully requested, as without these reasons, the Examiner fails to meet the requirements of a *prima facie* case of obviousness as imposed by the Supreme Court in the *KSR* decision.

In view of the above, there is believed no further basis for rejecting claims 1, 2, 4-8, 11-18, 20, 21, 23-36, 38 and 39 under 35 USC §103 over the Alverson/Angelo combination and any further rejection thereunder is respectfully traversed.

Claims 9, 10, 19 and 37 stand rejected under 35 USC §103 as being unpatentable over the Alverson/Angelo combination in view of “common art,” but there is no “common art” identified or cited by the Examiner. Firstly, inasmuch as claims 9, 10, 19 and 37 depend from either independent claim 1 or independent claim 20, the above comments regarding the Alverson/Angelo combination are herein incorporated by reference.

The Examiner’s assertion in section 31 on page 10 of the Official Action is respectfully traversed, i.e., that “saving instruction traces is common in the art” especially in the field of “controlling the monitoring function of a processor” as claimed. Applicants rely upon the requirement in the Manual of Patent Examining Procedure (MPEP) Section 2144.03 which states that “if the applicant traverses such an assertion the examiner should cite a reference in support of his or her position.” The Examiner’s statement that “Examiner asserts that saving instruction traces is common in the art and can be utilized for many debugging purposes” is respectfully traversed. Applicants request that the Examiner, in accordance with the requirements of the MPEP, “cite a reference in support of his or her position.” As noted in the MPEP, in response to

a traversal of an assertion of an assertion, “the data should be stated [by the examiner] as specifically as possible, and the facts **must be supported**, when called for by the applicant, by **an affidavit from the examiner**.” (emphasis added). It is noted that there is no requirement in the MPEP for Applicants to provide any initial affidavit or declaration traversing the Examiner’s “common art” assertion. Accordingly, Applicants require the Examiner to support his belief as to what is disclosed in the “common art” which he now alleges is disclosed in claims 9, 10, 19 and 37.

It is clearly noted that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 9, 10, 19 and 37 under the provisions of 35 USC §103 over the Alverson/Angelo combination in view of the uncited “common art” and this rejection is respectfully traversed.

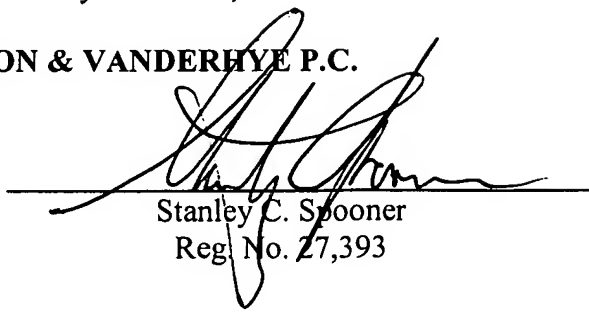
Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that independent claims 1 and 20 and claims dependent thereon are clearly in condition for allowance over the cited prior art and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicants’ undersigned representative.

WATT et al  
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Respectfully submitted,

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Enclosure:

Exhibit A, Webster's Ninth New Collegiate Dictionary definition of "mode"

**mob** *vi* mobbed; **mob-bing** (1709) 1: to crowd about and attack or annoy (mobbed by autograph hunters before he could enter the theater) 2: to crowd into or around (customers ~ the stores on sale days)

**mob-cap** \mab-kap/ (mob (woman's cap) + cap) (1795): a woman's fancy indoor cap made with a high full crown and often tied under the chin

**mobile** \mō-bēl, -bēl, -bil/ *adj* [MF, fr. L *mobilis*: fr. *movēre* to move] (15c) 1: capable of moving or being moved: MOVABLE (a ~ missile launcher) 2: changeable in appearance, mood, or purpose (~ face) b: ADAPTABLE, VERSATILE 3: MIGRATORY 4: characterized by the mixing of social groups b: having the opportunity for or undergoing a shift in status within the hierarchical social levels of a society (upwardly ~ workers) 5: marked by the use of vehicles for transportation (~ warfare) 6: of or relating to a mobile ~ **mob-ility** \mō-bil-ē-tē/ *n*

**mob-ile** \mō-bēl, -bēl/ *n* (1936): a construction or sculpture frequently of wire and sheet metal shapes with parts that can be set in motion by air currents; also: a similar structure (as of paper or plastic) suspended so that it moves in a current of air

**mobile home** *n* (1949): a trailer that is used as a permanent dwelling, is usu. connected to utilities, and is designed without a permanent foundation — compare MOTOR HOME

**mob-il-iza-tion** \mō-bā-lā-zā-shən/ *n* (1799) 1: the act of mobilizing 2: the state of being mobilized

**mob-il-ize** \mō-bā-līz/ *vb* -lized; -lizing *vi* (1838) 1: to put into movement or circulation (~ financial assets) b: to release (something stored in the organism) for bodily use 2: to assemble and make ready for war duty b: to marshal (as resources) for action (~ support for a proposal) ~ *vi*: to undergo mobilization

**Möbius** \mō-bē-əs, -mō(r)-, -mō-/ *n* [August F. Möbius 1788 Ger. mathematician] (1904): a one-sided surface that is constructed from a rectangle by holding one end fixed, rotating the opposite end through 180 degrees, and applying it to the first end

**mob-oc-ra-cy** \mā-bāk-rā-sē/ *n* (1754) 1: rule by the mob 2: the mob as a ruling class — **mob-ocrat** \māb-ō-kkrat/ *n* — **mob-ocrat-ic** \māb-ō-kkrat-ik/ *adj* **mob-ster** \māb-stər/ *n* (1917): a member of a criminal gang

**moc-ca-sin** \māk-sā-sən/ *n* [of Algonquian origin; akin to Natick *mok-kusin* shoe] (1612) 1: a soft leather heeled shoe or boot with the sole brought up the sides of the foot and over the toes where it is joined with a puckered seam to a U-shaped piece lying on top of the foot b: a regular shoe having a seam on the forepart of the vamp imitating the seam of a moccasin 2: a: WATER MOCCASIN b: a snake (as of the genus *Natrix*) resembling a water moccasin

**moccasin flower** *n* (1680): any of several lady's slippers (genus *Cypripedium*); esp.: a once common woodland orchid (*C. acaule*) of eastern No. America with pink or white moccasin-shaped flowers

**mo-cha** \mō-kā/ *n* [*Mocha*, Arabia] (1773) 1: a: (1): a superior Arabian coffee consisting of small green or yellowish beans (2): a coffee of superior quality b: a flavoring made of a strong coffee infusion or of a mixture of cocoa or chocolate with coffee 2: a pliable suede-finished glove leather from African sheepskins

**mock** \māk, -mōk/ *vb* [ME *mocken*, fr. MF *moquer*] *vi* (15c) 1: to treat with contempt or ridicule: DERIDE 2: to disappoint the hopes of — **DELUDE** 3: DEFY, CHALLENGE 4: to imitate (as a sound or mannerism) closely: MIMIC b: to mimic in sport or derision — *vi*: JEER, SCOFF *syn* *see* RIDICULE, COPY — **mock-er** *n* — **mock-ing-ly** \-īn-lē/ *adv* **mock** *n* (15c) 1: an act of ridicule or derision: JEER 2: one that is an object of derision or scorn 3: MOCKERY 4: an act of imitation b: something made as an imitation

**mock** *adj* (1548): of, relating to, or having the character of an imitation: SIMULATED, FEIGNED (the ~ solemnity of the parody)

**mock** *adv* (1619): in an insincere or counterfeit manner — *usu.* used in combination (**mock-serious**)

**mock-er-y** \māk-(ə)-rē, -mōk-/ *n*, *pl* -er-ies (15c) 1: insulting or contemptuous action or speech: DERISION 2: a subject of laughter, derision, or sport 3: a counterfeit appearance: IMITATION b: an insincere, contemptible, or impertinent imitation (arbitrary methods that make a ~ of justice) 4: something ridiculously or impudently unsuitable

**mock-her-oi-c** \māk-hi-rō-ik, -mōk-/ *adj* (ca. 1711): ridiculing or burlesquing heroic style, character, or action (a ~ poem) — **mock-her-oi-cal-ly** \-ik-(ə)-lē/ *adv*

**mock-her-oi-c** *n* (1728): a mock-heroic composition — called also **mock-epic**

**mock-ing-bird** \māk-īn-bərd, -mōk-/ *n* (1676): a common bird (*Mimus polyglottos*) esp. of the southern U.S. that is remarkable for its exact imitations of the notes of other birds

**mock orange** *n* (1731): any of various usu. shrubby plants considered to resemble the orange; esp.: *PHILADELPHUS*

**mock turtle soup** *n* (1783): a soup made of meat (as calf's head or veal), wine, and spices in imitation of green turtle soup

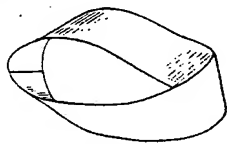
**mock-up** \māk-əp, -mōk-/ *n* (1920): a full-sized structural model built accurately to scale chiefly for study, testing, or display

**mod** \mād/ *adj* (1964): MODERN; esp.: bold and free in style; behavior, or dress

**mod** *n* (1965): one who wears mod clothes

**mod-acrylic fiber** \mād-ə-kri-līk-/ *n* [*modified acrylic*] (1960): any of various synthetic textile fibers that are long-chain polymers composed of 35 to 85 percent by weight of acrylonitrile units

**mod-al** \mōd-'l/ *adj* [ML *modalis*, fr. L *modus*] (1569) 1: of or relating to modality in logic 2: containing provisions as to the mode of procedure or the manner of taking effect — used of a contract or legacy 3: of or relating to a musical mode 4: of or relating to, structure as opposed to substance 5: of, relating to, or constituting a grammatical form or category characteristically indicating predication of an action or state in some manner other than as a simple fact 6: of or relating to a statistical mode — **mod-al-ly** \-'l-ē/ *adv*



Möbius strip

**modal auxiliary** *n* (ca. 1904): an auxiliary verb (as *can*, *must*, *might*, *may*) that is characteristically used with a verb of predication and expresses a modal modification and that in English differs formally from other verbs in lacking *-s* and *-ing* forms

**mod-al-ity** \mō-dal-ē-tē/ *n*, *pl* -ities (1617) 1: the quality or state of being modal b: a modal quality or attribute: FORM 2: the classification of logical propositions according to their asserting or denying the possibility, impossibility, contingency, or necessity of their content 3: one of the main avenues of sensation (as vision) 4: a usu. physical therapeutic agency

**mode** \mōd/ *n* [ME *moede*, fr. L *modus* measure, manner, musical mode — more at *METE*] (14c) 1: an arrangement of the eight diatonic notes or tones of an octave according to one of several fixed schemes of their intervals b: a rhythmical scheme (as in 13th and 14th century music) 2: MOOD 2 3 [LL *modus*, fr. L] a: MOOD 1 b: the modal form of the assertion or denial of a logical proposition 4: a: a particular form or variety of something b: a form or manner of expression: STYLE 5: a possible, customary, or preferred way of doing something (explained in the usual solemn ~) 6: a: a manifestation, form, or arrangement of being: SPECIF: a particular form or manifestation of an underlying substance b: a particular functioning arrangement or condition: STATUS (a spacecraft in reentry ~) (a computer operating in parallel ~) 7: a: the most frequent value of a set of data b: a value of a random variable for which a function of probabilities defined on it achieves a relative maximum 8: any of various stationary vibration patterns of which an elastic body or oscillatory system is capable (the vibration ~ of an airplane propeller blade) (the ~s of electromagnetic radiation in a waveguide) 9: the actual minimal composition of a rock *syn* *see* METHOD

**mod-e** *n* [F, fr. L *modus*] (1645): a prevailing fashion or style (as of dress or behavior) *syn* *see* FASHION

**mod-el** \mād-'l/ *n* [MF *modelle*, fr. OIt *modello*, fr. (assumed) VL *modellus*, fr. L *modulus* small measure, fr. *modus*] (1575) 1: obs.: a set of plans for a building 2: *diad* Brit: COPY, IMAGE 3: structural design (a home on the ~ of an old farmhouse) 4: a miniature representation of something; also: a pattern of something to be made 5: an example for imitation or emulation 6: a person or thing that serves as a pattern for an artist; esp.: one who poses for an artist 7: ARCHETYPE 8: an organism whose appearance a mimic imitates 9: one who is employed to display clothes or other merchandise: MANNEQUIN 10: a: a type or design of clothing b: a type or design of product (as a car or airplane) 11: a description or analogy used to help visualize something (as an atom) that cannot be directly observed 12: a system of postulates, data, and inferences presented as a mathematical description of an entity or state of affairs

*syn* MODEL, EXAMPLE, PATTERN, EXEMPLAR, IDEAL mean someone or something set before one for guidance or imitation. MODEL applies to something taken or proposed as worthy of imitation; EXAMPLE applies to a person to be imitated or in some contexts on no account to be imitated but to be regarded as a warning; PATTERN suggests a clear and detailed archetype or prototype; EXEMPLAR suggests either a faultless example to be emulated or a perfect typification; IDEAL implies the best possible exemplification either in reality or in conception.

**mod-el** *vb* *mod-eled* or *mod-elled*; *mod-el-ing* or *mod-el-ling* \mād-'l-īn-/ *vi* (1730) 1: to plan or form after a pattern: SHAPE 2: *archaic*: to make into an organization (as an army, government, or parish) 3: to shape or fashion in a plastic material b: to produce a representation or simulation of (using a computer to ~ a problem) 4: to construct or fashion in imitation of a particular model (~ed its constitution on that of the U.S.) 5: to display by wearing, using, or posing with (~ed gowns) ~ *vi* 1: to design or imitate forms: make a pattern (enjoys ~ing in clay) 2: to work or act as a fashion model — **mod-el-er** \mād-lər, -'l-ər/ *n*

**model** *adj* (1844) 1: serving as or capable of serving as a pattern (a ~ student) 2: being a miniature representation of something (a ~ airplane)

**mod-ern** \mō-dəm, -dəm/ *n* [modulator + demodulator] (ca. 1952): a device that converts signals from one form to a form compatible with another kind of equipment (a ~ for transmitting computer data over telephone lines)

**mod-er-ate** \mād-(ə)-rāt/ *adj* [ME, fr. L *moderatus*, fr. pp. of *moderare* to moderate; akin to L *modus* measure] (15c) 1: avoiding extremes of behavior or expression: observing reasonable limits (a ~ drinker) b: CALM, TEMPERATE 2: a: tending toward the mean or average amount or dimension b: having average or less than average quality: MEDIUM 3: avoiding extreme political or social measures (a ~ candidate) 4: limited in scope or effect 5: not expensive: reasonable or low in price 6: of a color: of medium lightness and medium chroma — **mod-er-ately** *adv* — **mod-er-ate-ness** *n*

**mod-er-ate** \mād-(ə)-rāt/ *vb* -at-ed; -at-ing *vi* (15c) 1: to lessen the intensity or extremeness of (the sun moderated the chill) 2: to preside over or act as chairman of (~ *vi* 1: to act as a moderator 2: to become less violent, severe, or intense — **mod-er-a-tion** \mād-ə-'rā-shən/ *n*

**mod-er-ate** \mād-(ə)-rāt/ *n* (1794): one who holds moderate views or who belongs to a group favoring a moderate course or program (as in politics or religion)

**moderate breeze** *n* (ca. 1805): wind having a speed of 13 to 18 miles per hour

**moderate gale** *n* (ca. 1805): wind having a speed of 32 to 38 miles per hour

**mod-er-a-to** \mād-ə-'rāt-(ə)-tō/ *adv* or *adj* [It, fr. L *moderatus*] (ca. 1724) 1: MODERATE — used as a direction in music to indicate tempo

**mod-er-a-tor** \mād-ə-'rāt-ər/ *n* (1560) 1: one who arbitrates: MEDIATOR 2: one who presides over an assembly, meeting, or discussion: as a: the presiding officer of a Presbyterian governing body b: the nonpartisan presiding officer of a town meeting c: the chairman of a discussion group 3: a substance (as graphite) used for slowing down neutrons in a nuclear reactor — **mod-er-a-tor-ship** \-shīp/ *n*

**mod-ern** \mād-əm, +mād-(ə)-rən/ *adj* [LL *modernus*, fr. L *modo* just now, fr. *modus* measure — more at *METE*] (1585) 1: a: of, relating to, or characteristic of a period extending from a relevant remote past to the present time b: of, relating to, or characteristic of the present or the immediate past: CONTEMPORARY 2: involving recent techniques